

are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects.

(k)<sup>1</sup> **PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.**—In selecting projects for inclusion in a program of projects under this section, the State may give priority to high priority segments of corridors identified under section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991. In approving programs of projects under this section, the Secretary may give priority of approval to, and expedite construction of, projects to complete construction of such segments.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 891; Pub. L. 86-624, §17(b), July 12, 1960, 74 Stat. 415; Pub. L. 89-564, title II, §206, Sept. 9, 1966, 80 Stat. 736; Pub. L. 91-605, title I, §§106(d), 132, Dec. 31, 1970, 84 Stat. 1717, 1732; Pub. L. 93-87, title I, §109(b), Aug. 13, 1973, 87 Stat. 255; Pub. L. 95-599, title I, §§111, 112, Nov. 6, 1978, 92 Stat. 2696; Pub. L. 97-424, title I, §109(a), Jan. 6, 1983, 96 Stat. 2104; Pub. L. 102-240, title I, §1105(g)(7), Dec. 18, 1991, 105 Stat. 2036.)

#### REFERENCES IN TEXT

Section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (k), is section 1105(f) of Pub. L. 102-240, which is not classified to the Code.

#### AMENDMENTS

1991—Subsec. (k). Pub. L. 102-240 added subsec. (k).  
1983—Subsec. (h). Pub. L. 97-424 added subsec. (h).  
1978—Subsec. (b). Pub. L. 95-599, §111, inserted provision relating to selection of program projects after consultation with local officials in situations where public roads and highways are under control and supervision of State highway departments.

Subsec. (g). Pub. L. 95-599, §112, substituted “public airports, public ports for water transportation, new town communities, and new town-intown communities,” for “public airports and public ports for water transportation.”

1973—Subsec. (d). Pub. L. 93-87 substituted “projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title”, for “projects be selected by the appropriate local officials and the State highway department in cooperation with each other”.

1970—Subsecs. (d) to (f). Pub. L. 91-605, §106(d), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 91-605, §132, added subsec. (g).

1966—Subsec. (e). Pub. L. 89-564 added subsec. (e).

1960—Subsec. (e). Pub. L. 86-624 repealed subsec. (e) which required the Secretary, in approving programs in Hawaii, to give preference to such projects as will expedite the completion of highways for the national defense or which will connect seaports with units of the national parks.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section

1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

#### ACCELERATION OF PROJECTS

Section 129 of Pub. L. 97-424 provided that: “The Secretary of Transportation shall by rule or regulation establish, as soon as practicable, alternative methods for processing projects under title 23, United States Code, so as to reduce the time required from the request for project approval through the completion of construction. In carrying out this section the Secretary shall utilize the knowledge and experience resulting from the demonstration project authorized by and carried out under section 141 of the Federal-Aid Highway Act of 1976 [Pub. L. 94-280, title I, §141, May 5, 1976, 90 Stat. 444, set out as a note under section 124 of this title].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 117, 131, 140, 143, 150 of this title.

### § 106. Plans, specifications, and estimates

(a) Except as provided in this section and section 117 of this title, the State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such surveys, plans, specifications, and estimates for each proposed project included in an approved program as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

(b) **SPECIAL RULES.**—

(1) **3R PROJECTS ON NHS.**—Notwithstanding any other provision of this title, a State highway department may approve, on a project by project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System if the State certifies that all work will meet or exceed the standards approved by the Secretary under section 109(c).

(2) **NON-NHS PROJECTS AND LOW-COST NHS PROJECTS.**—Any State may request that the Secretary no longer review and approve plans, specifications, and estimates for any project (including any highway project on the National Highway System with an estimated construction cost of less than \$1,000,000 but excluding any other highway project on the National Highway System). After receiving any such notification, the Secretary shall undertake project review only as requested by the State.

(3) **SAFETY CONSIDERATIONS.**—Safety considerations for projects subject to this subsection may be met by phase construction consistent with an operative safety management system established in accordance with section 303.

(c) **LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.**—Items included in all such estimates for construction engineering for a State for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway

<sup>1</sup> So in original. Probably should be “(i)”.

funds in such fiscal year, after excluding from such total estimate costs, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.

(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis.

(e) LIFE-CYCLE COST ANALYSIS.—

(1) ESTABLISHMENT.—The Secretary shall establish a program to require States to conduct an analysis of the life-cycle costs of each usable project segment on the National Highway System with a cost of \$25,000,000 or more.

(2) ANALYSIS OF THE LIFE-CYCLE COSTS DEFINED.—In this subsection, the term “analysis of the life-cycle costs” means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

(f) VALUE ENGINEERING FOR NHS.—

(1) REQUIREMENT.—The Secretary shall establish a program to require States to carry out a value engineering analysis for all projects on the National Highway System with an estimated total cost of \$25,000,000 or more.

(2) VALUE ENGINEERING DEFINED.—In this subsection, the term “value engineering analysis” means a systematic process of review and analysis of a project during its design phase by a multidisciplinary team of persons not involved in the project in order to provide suggestions for reducing the total cost of the project and providing a project of equal or better quality. Such suggestions may include combining or eliminating otherwise inefficient or expensive parts of the original proposed design for the project and total redesign of the proposed project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 88-157, §7(a), Oct. 24, 1963, 77 Stat. 278; Pub. L. 91-605, title I, §§106(e), 142, Dec. 31, 1970, 84 Stat. 1717, 1737; Pub. L. 94-280, title I, §114, May 5, 1976, 90 Stat. 436; Pub. L. 100-17, title I, §133(b)(4), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102-240, title I, §§1016(b), 1018(a), Dec. 18, 1991, 105 Stat. 1945, 1948; Pub. L. 104-59, title III, §303, Nov. 28, 1995, 109 Stat. 578.)

#### AMENDMENTS

1995—Subsecs. (e), (f). Pub. L. 104-59 added subsecs. (e) and (f).

1991—Subsec. (a). Pub. L. 102-240, §1016(b)(1), inserted “this section and” before “section 117”.

Subsec. (b). Pub. L. 102-240, §1016(b)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: “In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under the control and supervision of the State highway department, and (2) the Federal-aid urban system, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.”

Subsec. (c). Pub. L. 102-240, §1018(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as

follows: “Items included in any such estimate for construction engineering shall not exceed 15 percent of the total estimated cost of a project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.”

1987—Subsec. (c). Pub. L. 100-17 substituted “15 percent” for “10 per centum” and struck out at end “However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.”

1976—Subsec. (c). Pub. L. 94-280 substituted “Federal-aid highway funds” for “Federal-aid primary, secondary, or urban funds” and “such total estimate cost” for “such total estimated cost” and struck out 10 per centum limitation for any project financed with interstate funds.

1970—Subsec. (b). Pub. L. 91-605, §106(e), inserted reference to the Federal-aid urban system.

Subsec. (d). Pub. L. 91-605, §142, added subsec. (d).

1963—Subsec. (c). Pub. L. 88-157 substituted “a project financed with Federal-aid primary, secondary, or urban funds” for “the project” and provided for limitation, on items included in estimates for construction engineering on projects financed with Federal-aid primary, secondary, or urban funds, of 15 percent of total estimated cost of the project where found by the Secretary to be necessary and for 10-percent limitation on projects financed with interstate funds.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

#### STUDY OF VALUE ENGINEERING

Section 1091 of Pub. L. 102-240 provided that:

“(a) STUDY.—The Secretary shall study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects. Such study shall include an analysis of and the results of specialized techniques utilized in all facets of highway construction for the purpose of reduction of costs and improvement of the overall quality of Federal-aid highway projects.

“(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall report to Congress on the results of the study under subsection (a), including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.”

#### MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Pub. L. 89-574, §5(b), Sept. 13, 1966, 80 Stat. 767, as amended by Pub. L. 97-449, §2(a), Jan. 12, 1983, 96 Stat. 2439, authorized Secretary to modify project agreements entered into prior to Sept. 13, 1966, pursuant to section 106 of this title for purpose of effectuating amendment made by this section (amending section 109(b) of this title to add a requirement of four lanes of traffic) with respect to as much of National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] as may be possible.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 112, 117, 121, 143 of this title; title 40 App. section 201.

### § 107. Acquisition of rights-of-way—Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests